

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
MARIA JOSE PIZARRO,

Plaintiff,

No: 20-CV-5783 (AKH))

- against-

EUROS EL TINA RESTAURANT LOUNGE AND
BILLIARS, CORP. SANTIAGO QUEZADA, AND
SANTIAGO QUEZADA, JR.,

Defendant.
-----X

Joint Pre-Trial Order

**Information Required by Rule 3(A) of Judge Alvin K Hellerstein's, II's Individual Rules
and Practices:**

(I) Full Caption of the Action: See above.

**(II) THE NAMES, ADDRESSES (INCLUDING FIRM NAMES), AND
TELEPHONE AND FAX NUMBERS OF TRIAL COUNSEL.**

For Plaintiff:
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For Defendants:
Martin Restituyo, Esq.

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(III) A BRIEF STATEMENT BY PLAINTIFF AS TO THE BASIS OF SUBJECT MATTER JURISDICTION AND A BRIEF STATEMENT BY EACH PARTY AS TO THE PRESENCE OR ABSENCE OF SUBJECT MATTER JURISDICTION. SUCH STATEMENTS SHALL INCLUDE CITATIONS TO ALL STATUTES RELIED ON AND TO RELEVANT FACTS AS TO CITIZENSHIP AND JURISDICTIONAL AMOUNT IN QUESTION.

The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331 as this action involves violations of Plaintiff's rights under Title VII of the Civil Rights Act of 1964. The Court has supplemental jurisdiction over Plaintiff's New York State Human Rights Law, New York City Human Rights Law, and New York Labor Law claims pursuant to 28 U.S.C. § 1367(a).

Defendants concede that this court has jurisdiction over the claims alleged.

(IV) A BRIEF SUMMARY BY EACH PARTY OF THE CLAIMS AND DEFENSES THAT PARTY HAS ASSERTED WHICH REMAIN TO BE TRIED, WITHOUT RECITAL OF EVIDENTIARY MATTERS, BUT INCLUDING CITATIONS TO STATUTES RELIED UPON. SUCH SUMMARIES SHALL IDENTIFY ALL CLAIMS AND DEFENSES PREVIOUSLY ASSERTED WHICH ARE NOT TO BE TRIED.

Plaintiff's Claims Are As Follows:

~~Count 2: Retaliation in Violation of Title VII~~

Count 3: Hostile Work Environment in Violation of NYCHRL + Title VII

Count 4: Hostile Work Environment in Violation of NYSHRL

Discrimination under NYCHRL

~~Count 5: Retaliation in Violation of NYSHRL~~

~~Count 6: Aiding and Abetting Retaliation in Violation of NYSHRL~~

~~Count 7: Retaliation in Violation of NYCHRL~~

Count 8: Aiding and Abetting in Violation of NYCHRL

Defendants' Defenses Are As Follows:

Affirmative Defense 1: Plaintiff failed to state a claim upon which relief can be granted.

Affirmative Defense 2: Plaintiff suffered no "adverse employment action."

Affirmative Defense 6: Plaintiff's employer exercised reasonable care to prevent and promptly correct any purportedly discriminatory behavior in its workplace, and Plaintiff unreasonably failed to take advantage of the preventive or corrective opportunities provided by the employer or to otherwise avoid harm.

Affirmative Defense 8: Plaintiff's claims are barred to the extent Plaintiff failed, refused, and/or neglected to mitigate or avoid the damages complained of in Plaintiff's Complaint.

- (V) **A COPY OF THE PLEADINGS MARKED TO SHOW, FOR EACH CLAIM AND DEFENSE, IN THE MARGIN NEXT TO EACH ALLEGATION THEREOF, THE ADMISSIONS AND DENIALS; AND IF ANY CLAIMS OR DEFENSES HAVE BEEN WITHDRAWN OR PREVIOUSLY DETERMINED.**

See Attached.

- (VI) **A STATEMENT BY EACH PARTY AS TO WHETHER THE CASE IS TO BE TRIED WITH OR WITHOUT A JURY, AND THE NUMBER OF TRIAL DAYS NEEDED**

The parties request a jury trial, which they anticipate will take four to five days.

(VII) A STATEMENT AS TO WHETHER ALL PARTIES HAVE CONSENTED TO TRIAL OF THE CASE BY A MAGISTRATE JUDGE (WITHOUT IDENTIFYING WHICH PARTIES HAVE OR HAVE NOT SO CONSENTED).

No.

(VIII) ANY STIPULATIONS OR AGREED STATEMENTS OF FACT OR LAW THAT HAVE BEEN AGREED TO BY ALL PARTIES

N/A

(IX) A LIST OF THE NAMES AND ADDRESSES OF ALL WITNESSES, INCLUDING EXPERT WITNESSES AND POSSIBLE WITNESSES WHO WILL BE CALLED ONLY FOR IMPEACHMENT OR REBUTTAL PURPOSES AND SO DESIGNATED, TOGETHER WITH A BRIEF STATEMENT OF THE EXPECTED TESTIMONY OF EACH WITNESS. ONLY LISTED WITNESSES WILL BE PERMITTED TO TESTIFY EXCEPT WHERE PROMPT NOTICE HAS BEEN GIVEN AND GOOD CAUSE SHOWN.:

| NAME OF PLAINTIFF'S WITNESSES | ANTICIPATED TESTIMONY |
|--|--|
| Plaintiff c/o Brustein Law PLLC | Plaintiff will testify as to the sexual harassment, gender discrimination and retaliation she suffered at hands of Defendants as well as to her resulting damages. |
| Jose Eladio Castro, c/o The Rose Law Group | Mr. Castro will testify about his observations of sexual harassment and, sexual assault by Santiago Quezada as well as related matters. |
| Cristian Argenis Guzman Dilone | Mr. Dilone will testify about his observations of sexual harassment and related matters |

Each of the witnesses listed above was included in Plaintiff's Initial Disclosures and/or was revealed during the course of discovery. Plaintiff reserves the right to call any witness listed on Defendant's witness list. Further, Plaintiff reserves the right to call witnesses not identified on this Witness List in rebuttal to any testimony given, witnesses called, or exhibits introduced by Defendant during the trial of this matter.

| NAME OF DEFENDANTS WITNESSES | ANTICIPATED TESTIMONY |
|------------------------------|-----------------------|
| Santiago Quezada Sr. | Rebuttal witness |
| Santiago Quezada Jr. | Rebuttal witness |
| Other ¹ | |

(X) A DESIGNATION BY EACH PARTY OF DEPOSITION TESTIMONY TO BE OFFERED IN ITS CASE-IN-CHIEF, WITH ANY CROSS-DESIGNATIONS AND OBJECTIONS BY ANY OTHER PARTY.

Plaintiff's Designations:

| DESIGNATION (PAGE:LINE) | COUNTER-DESIGNATION (PAGE:LINE) |
|-------------------------|---------------------------------|
| | |
| | |
| | |

X(a) – STIPULATED FACTS

X(b) – PROPOSED TRIAL EXHIBITS

| PLAINTIFF'S PROPOSED EXHIBITS | DESCRIPTION | DEFENDANT'S OBJECTIONS |
|-------------------------------|--|----------------------------------|
| 1. | Photograph of Gifts from Quezada | |
| 2 | Surveillance Camera Still frames | |
| 3 | Answer and Cross Claims in Luna v Quezada | Irrelevant to the instant matter |
| 4 | Safe Harbor Letter and Draft Motion on Luna v <u>Quezada</u> | Irrelevant to the instant matter |
| 5 | Stipulation of Dismissal with Prejudice | Irrelevant to the instant matter |

¹ Defendants reserve the right to call additional rebuttal witnesses as necessary to rebut Plaintiff's and Plaintiff's witnesses testimony.

| DEFENDANTS' PROPOSED | DESCRIPTION | PLAINTIFF'S OBJECTIONS |
|----------------------|--|------------------------|
| A. | Maria and Castro emails | FRE 401, 402, 403, 901 |
| B. | Payment receipt for Mercedes Benz | FRE 401, 402, 403 |
| C. | Statement of Payments of Promissory Note | FRE 401, 402, 403 |
| D. | Check from Castro to Maria | FRE 401, 402, 403 |
| E. | Check from Castro to Maria | FRE 401, 402, 403 |
| F. | Loan from Eladio Castro Productions to Maria | FRE 401, 402, 403 |
| G. | Payment agreement with Castro | FRE 401, 402, 403 |
| H. | Loan from Castro to Maria | FRE 401, 402, 403 |
| I. | Maria and Castro WhatsApp messages | FRE 401, 402, 403, 901 |
| J. | 1st Loan Letter | FRE 401, 402, 403 |
| K. | Check Eladio Castro Productions to Maria Pizarro | FRE 401, 402, 403 |
| L. | Check Eladio Castro Productions to Maria Pizarro | FRE 401, 402, 403 |
| M. | Check Eladio Castro Productions to Maria Pizarro | FRE 401, 402, 403 |
| N. | Complaint in case of Eladio Castro v Santiago Quezada and Euros El Tina ² | FRE 401, 402, 403, 801 |
| O. | Emails from Maria and various lovers | |

Dated: October 6, 2023
New York, New York

Yours, etc.

BRUSTEIN LAW PLLC

² Defendants reserve the right to amend or supplement exhibits based on Plaintiff's case the need for rebuttal.

By: /s/ Evan Brustein

Evan Brustein, Esq.

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By: /s/ Martin Restituyo

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Attorney for Defendants

So Ordered

10-17-23

John K. Patterson